IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

CRL.A.No. 1021 of 2003(A)

CC.1179/2002 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KODUNGALLUR
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APPELLANT: COMPLAINANT:

KARTHIKEYAN, S/O. BALAN,
NADIYIRIPPIL HOUSE, KARAYAVATTAM, VALAPPAD,
CHAVAKKAD TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS: ACCUSED AND STATE:
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1. HEMALATHA, W/O. JOHN,
CHEERAKAVILLA HOUSE, KARAYAVATTAM DESOM,
VALAPPAD, CHAVAKKAD TALUK.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 30/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.1021 of 2003

Dated this the 30th day of October, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 28.11.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl